Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No.----------

In The

Supreme Court of the United States

DOMINICK THERESA,

Petitioner,

v.

WILLIAM M. FETKY ,

Respondents,

Petition for a Writ of Certiorari to the
New Jersey Supreme Court

Petition for a Writ of Certiorari

Dominick Theresa
Bx 10777
New Brunswick, NJ 08906
908-208-1960

December 4, 2006

QUESTION PRESENTED

1. Whether the New Jersey Supreme Court improperly refused to address Prima Facie evidence that had been presented which clearly showed that a monetary sum was stolen from a Mr. Dominick Theresa (Petitioner) and because of bias and prejudice, this monetary sum which has been unjustly taken, by a Mr. William Fetky (Respondent), was allowed to pass through each appeal level.

PARTIES TO THE PROCEEDING BELOW

All parties to the proceedings in the courts below are listed in the caption.

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In The

Supreme Court of the United States

No.----------

DOMINICK THERESA,

Petitioner,

v.

WILLIAM M. FETKY,

Respondent,

Petition for a Writ of Certiorari to the
New Jersey Court of Appeal,
Appellate Division

Petition for a Writ of Certiorari

The Petitioner, State of New Jersey prays that the Court issue a Writ of Certiorari to review the judgment of the Court of Appeal for the State of New Jersey, Supreme Court.

OPINIONS BELOW

Superior Court of the state of New Jersey Law Division

for the county of Middlesex set forth the Turnover Order on September 23, 2005 (Appendix 1A).

The Per Curiam of the Court of Appeal of New Jersey, Appellate Division on May 25, 2006 (Appendix 2a and 3a).

New Jersey Supreme Court denied the Petition for Certification, on September 8, 2006 (Appendix 4a).

JURISDICTION

New Jersey Supreme Court denied the Petition for Certification on September 8, 2006. (Appendix 4a)

This Court has Jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL AND STATUTES INVOLVED

Sixth Amendment: The right to conduct his or her own defense as necessary to a fair trial under the Due Process clause and to have compulsory process for up obtaining witnesses and his favor.

Fourteenth Amendment: No state shall make or enforce any law, which shall abridge the privileges or immunities of citizens of the U.S.: nor shall any state deprive any person of life, Liberty or property, without due process of law: nor deny any person without its jurisdiction the equal protection of the law.

STATEMENT OF THE CASE

A sum amount of $7,291.82 was taken from Petitioner's (Mr. Dominick Theresa) bank account on September 23, 2005. A Turnover Order for this amount was given to a Mr. William Fetky (now the Respondent), who was the divorce lawyer for the previous Mrs. Theresa (Plaintiff), without any valid and clear evidence that Mr. Theresa (Defendant in the divorce) ever owed Mr. Fetky any counsel fees.

The Final Divorce Order (written by Mr. William Fetky) was heard on Dec 4 and 5, 1995, before Judge Robert L. Garrenger Jr. At the bottom of this order, Mr. Fetky was asking Mr. Theresa to pay $5,000.00, including costs, toward the Plaintiff, for counsel fees. Mr. Theresa objected to paying any counsel fees toward the Plaintiff's side, as he felt each party should be responsible for payment of their own counsel fees. For this reason, Judge Garrenger asked both sides to submit a letter on this disagreement of the $5,000.00

At Judge Garrenger's request, both sides wrote and handed in their letters to the court. Mr. Fetky submitted a request for the counsel fees, on December 7, 1995. Also, Mr. Theresa submitted his letter of objection to his payment of the Plaintiff's counsel fees, on December 15, 1995.

Judge Garrenger signed the Final Divorce Order, on January 16, 1996, without Mr. Theresa or Mr. Fetky present. Judge Garrenger never circled or granted the $5,000.00 counsel fee to Mr. Fetky, which would have needed to be done by Judge Garrenger, in order for the counsel fee to have been awarded.

On July 28, 2005, Mr. Theresa's bank notified him that a sum amount of $7, 291.82 ($5,000.00 plus interest over nine years) was being held frozen on his account and that Mr. Fetky was asking for a Turnover Order to be granted, to obtain this money. So at this time, Mr. Theresa filed a motion to dismiss the Turnover (with Prima Facie evidence), as he did not owe Mr. Fetky any monetary sum for counsel

fees and he felt that Mr. Fetky was trying to "steal" this money. Mr. Fetky's reason for his wanting the money, was that the Final Divorce Order allegedly stated that he was to be given the $5,000.00 that he was asking for. However, this was not true, as Judge Garrenger had never circled granted, thus, showing that Mr. Theresa was not suppose to pay the Plaintiff's counsel fees. Mr. Fetky never produced any piece of evidence that clearly stated that he was owed this monetary sum.

REASONS FOR GRANTING THE WRIT

1. The Issue Of Whether An Error In Paperwork During A Final Divorce Order That Has Caused The Petitioner, Mr. Theresa, To Be Unfairly Stripped Away Of A Monetary Sum Should Be Looked Upon To Emanate All The Correctness It Deserves And Presents a Substantial Question For The General Public Importance.

The Petitioner's evidence, within each appeal level, was not properly looked at and thoroughly reviewed by an impartial party. The bias and prejudice that had occurred against the Petitioner's case, needed to be stripped away so that the Prima Facie evidence which was provided, be given the correct justice it deserves and the Petitioner be granted "Due Process to a Fair Hearing" under the Sixth and Fourteenth Amendment of the United States Constitution.

The Petitioner had provided Prima Facie evidence that clearly showed an alleged award had not been granted by Judge Garrenger, as he never circled or granted the monetary fee that Mr.Fetky was asking for.The Petittioner undoubtedly

demonstrated, during each appeal level, how bias and prejudice had occurred against the case. Even so all Prima Facie merits were wholly established by the Petitioner, the Per Curiam opinion that was entered on May 25, 2006, erred by ignoring the Petitioner's evidence, because Mr. Fetky failed to ever once present proof, that his alleged award had been granted.

The Per Curiam never stated that Mr. Fetky deserved any money because he presented solid evidence to them that could clearly show them that he was allegedly granted the money. The Per Curiam could not say this, as he never did show proof, yet they still let it pass through in favor of Mr. Fetky, ignoring the lack of evidence from him. The Petitioner had provided Prima Facie evidence of the transcripts to the Appellate Division, that the Trial Judge, Judge Mathis E. Rodriguez, made multiple errors, showing bias and prejudice statements in knowing Judge Robert L. Garrenger Jr. and speaking on Judge Garrenger's character

and status of mind for decision making, instead of looking at the concrete evidence that was presented in front of him, that never showed that Judge Garrenger, at any point, granted Mr. Fetky the counsel fees, as he did not circle granted. Mr. Fetky had no right to freeze and then obtain a monetary sum of money, that never belonged to him, especially without evidence. Mr. Theresa feels that Mr. Fetky has swindled not only himself, but also the Courts, has he had his paperwork pass through and be awarded this money, without ever presenting evidence, which the justice system is based on.

By accepting this writ and correcting this matter, it would ensure that all future orders for the General Public, that state "granted or denied", would not be honored by anyone, unless one of the stated words was circled (or any other words that are coupled: "yes/no", accepted/rejected, etc... which could also cause great confusion if no word was

circled), as to not cause any unnecessary discrepancies. This court accepting this writ would be the model case that corrects this type of issue for the General Public importance.

CONCLUSION

This Court should grant this Petition for Writ of Certiorari to the Petitioner. The above merits clearly show that the monetary sum taken from Mr. Theresa, was completely unjust and looked upon as stolen, as Mr. Fetky was unduly given the money. Because of the unfairness that occurred during each appeal level, the Petitioner never received "Due Process to a Fair Hearing" and this case would affect and present substantial questions to the General Public Importance, upon how all future orders get executed.

Respectfully Submitted,

Dominick Theresa
(Petitioner, Pro se)

Dominick Theresa
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New Brunswick, NJ 08906
908-208-1960

Appendix

[filed: September 23, 2005]

SUPERIOR COURT
OF THE STATE OF NEW JERSEY
LAW DIVISION, COUNTY OF MIDDLESEX

Docket No. DJ-277043-99

WILLIAM M. FETKY,
Plaintiff,

v.

DOMINICK THERESA,
Defendant,

Order of Turnover

s/ The Honorable Mathis E. Rodriguez, J.S.C.

Appendix

[filed: May 25, 2006]

SUPERIOR COURT
OF NEW JERSEY APPELLATE DIVISION

Docket No. A-12551-05T2

WILLIAM M. FETKY,
Plaintiff and Respondent,

v.

DOMINICK THERESA,
Defendant and Appellant,

Per Curiam

Defendant Dominick Theresa was a litigant in a divorce action in which plaintiff, attorney William M. Fetky, represented defendant's wife. Defendant appeals from an order by Judge Mathias Rodriguez that, after a levy, directed the turnover of funds contained in defendant's checking account.

The current collection action is an attempt by plaintiff to recover a fee award, which plaintiff alleges was awarded by Judge Garrenger in the divorce action. Defendant argues that Judge Rodriguez erred in granting the turnover because Judge Garrenger never circled "granted" in the judgment of divorce, and Judge Rodriguez was biased, prejudiced, rude, and derogatory.

Our review of the record, in light of defendant's arguments and the pertinent law, reveals clearly that Judge Garrenger awarded the fee, a proper judgment was entered, and the turnover correctly ordered. Furthermore, the transcript does not disclose any bias, prejudice, rudeness, or derogatory behavior by Judge Rodriguez. R. 2:11-3 (e) (1) (E).

Affirmed.

s/ The Honorable Lefelt and Seltzer

Appendix

[filed: September 8, 2006]

IN THE SUPREME COURT OF NEW JERSEY

Docket No. 59,740

WILLIAM M. FETKY,
Plaintiff and Respondent,

v.

DOMINICK THERESA,
Defendant and Appellant,

Petition for Certification is denied.

s/ The Honorable Deborah T. Poritz
Chief Justice